IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1260 OF 2005

IN
Cri.Appln. No. 4104/2003

Rajendrakumar Kishanlal Agarwal .. Applicant.

V/s.

The State of Maharashtra & Anr. .. Respondents.

Shri M.M. Vashi for the Applicant.
Shri A.S. Gadkari, APP for Respondent No.1-State.
Shri Ejaz Khan for CBI-Respondent No.2.

CORAM : A.M.KHANWILKAR, J.
DATED : FEBRUARY 24, 2005

PC :-

1. Heard counsel for the parties.

2. This application if filed by the applicant who is accused No.2 in the case pending before the Special Judge, CBI, Gr.Mumbai arising out of R.C..18/A/2003, under the provisions of Prevention of Corruption Act and Indian Penal Code. The applicant prays that he may be permitted to go to Dubai and Thailand for 10 days each, from 25/2/2005 onwards for business purpose. In the past similar application was made by the applicant for travelling abroad to some other

destination and which request was acceded to by this court as can be discerned from the order dated 3rd October, 2003 passed in criminal Application No. 4104/2003 on certain conditions. This time, the applicant moved the trial court for similar relief on such conditions as may be deemed proper. The trial court, however, by order dated 20th February, 2005 has rejected the applicant's request on the reasoning that in these days of modern communication, such as phone, fax, e-mail, internet, teleconference etc., it is not required for any corporate personnel to make any personal visit abroad for securing any business or orders for his company and that the applicant is one of the bosses of the company and in his place some other responsible personnel of the company can espouse the cause of the company, if at all such visit is necessary.

3. Indeed, in view of the developments in communication system it is possible to interact with any person who is, at the relevant time, abroad. However, that does not mean that the corporate personnel cannot visit or ought not to visit abroad for the purpose of better interaction and for exploring possibility of further business. Viewed in

this perspective, the first reason, which has weighed with the learned Judge for rejecting the application of the applicant, cannot be sustained.

4. It is true that the applicant is one of the bosses of the company and there are other personnel, who can also efficaciously deal with the situation for procuring business from abroad. But it cannot be overlooked that the applicant is the Chairman and Managing Director of the Company, who stands on a different footing and he cannot be prevented from touring merely because other personnel of the company are also available. It would have been different matter if the investigating agency had seriously objected to the visit of the applicant to go abroad. It is not so in the present case. Counsel appearing for the respondents fairly submits that as the applicant had travelled abroad in the past and has complied with all the conditions which were imposed and if the applicant undertakes to comply with the same conditions on this occasion, the investigating agency will have no objection for his travelling abroad. In other words, securing the presence of the applicant for the purpose of the trial is the only concern of the investigating agency and, it is the

correct approach in the facts and circumstances of the present case.

5. Accordingly, this application ought to be succeeded in terms of the prayer clause (a) on condition that the applicant shall furnish his itinerary to the investigating officer for his travel to Dubai and Thailand and also file affidavit of undertaking before this court that he shall report to the investigating officer immediately on the next date after his return from his visit from Thailand. He shall furnish his itinerary details including his places of stay, telephone numbers (landline) and personal mobile number, if any.

6. Application is disposed of in the above terms.

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